



# District of Columbia Sentencing and Criminal Code Revision Commission

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441 4th St, NW, Suite 430 South, Washington, DC 20001  
Telephone (202) 727-8822 Fax (202) 727-7929

## MINUTES OF FULL COMMISSION MEETING

April 5, 2016

One Judiciary Square, Suite 430S, Washington, DC 20001

### **Voting Members in Attendance:**

Frederick Weisberg  
Robert Morin  
Laura Hankins  
Paul Butler

Donald Braman  
Julie Samuels  
Molly Gill

Dave Rosenthal  
Marvin Turner  
Renata Cooper

### **Non-Voting Members in Attendance:**

Stephen Husk

Michael Anzallo

### **Staff in Attendance:**

Barbara Souvey  
Richard Schmechel  
Robel Maru  
Rachel Redfern

Michael Serota  
Linden Fry  
Mia Hebb  
Bryson Nitta

LaToya Wesley  
Matthew Graham  
Jinwoo Park

- I.** Chairman Weisberg called the meeting to order at 5:15 p.m.
- II.** The minutes from February 16, 2016, meeting were reviewed, amended, and approved.
- III.** Director's Report – Informational Item, Barbara Souvey and Chairman Weisberg
  - a) Data Request Report
  - b) Annual Report Discussion

**Director's Report:** Barbara Souvey provided a summary of the data requests the agency received and completed for the first and second quarters of FY 2016. A Commission member asked if future data request summaries could also include any data requests that were in progress at the end of each quarter. Ms. Souvey stated she would include that information in future data request summaries. Additionally, Ms. Souvey noted that two sentencing related data sets will be posted on the Commission's website by the end of FY 2016.

Chairman Weisberg encouraged the Commission members to provide their comments and edits to the Annual report before the April 8<sup>th</sup> deadline. A Commission member requested that a chart displaying offender race data that

was used in the 2014 Annual report be updated with 2015 data and used in this year's report.

- IV. The Ranking of Two New Felony Offenses – Action Item, Linden Fry
- a) Felony Injuring/Obstruction a Police Animal
  - b) First-Degree Unlawful Publication of Sexual Images

**Guidelines Ranking of Two New Felony Offenses:** Mr. Fry stated that the Guidelines Implementation Committee met and discussed the ranking of two new offenses enacted by the Council in 2015:

- Felony Injuring/Obstruction a Police Animal
- First-Degree Unlawful Publication of Sexual Images

Mr. Fry described the factors the Committee considered when they discussed where the new offenses should be ranked.

Mr. Fry relayed that the Committee unanimously agreed to recommend ranking Felony Injuring/Obstruction of a Police Dog in Master Group 8. Mr. Fry opened the floor for questions or concerns regarding the proposed ranking of the offense.

**Commission Action#1:** The Commission unanimously voted to rank Felony Injuring/Obstruction a Police Animal in Master Group 8 by a 10-0 vote.

Mr. Fry stated that the Committee debated the ranking of First-Degree Unlawful Publication of Sexual Images but could not reach an agreement on a specific ranking. The Committee did agree that the offense should be ranked in either Master Group 8 or Master Group 9. Members of the Committee presented their arguments for ranking the offense in each of the respective Master Groups. Their arguments reviewed the maximum statutory penalty and its relation to other offenses, what was known about the legislative intent, the heartland of the offense, the possible harm victim as a result of the offense, and the ranking of similar offenses. The Commission then discussed the ranking of the offense. Commission members unanimously agreed that the offense should be ranked in either Master Group 8 or Master Group 9.

**Commission Action#2:** The Commission voted on whether to rank First-Degree Unlawful Publication of Sexual Images in Master Group 8 or Master Group 9. Eight Commission members voted to rank the offense in Master Group 9. Two Commission members voted to rank the offense in Master Group 8. As a result of the vote, the Commission will rank the offense in Master Group 9.

- V. Proposed Revision to 2016 Sentencing Guidelines Manual – Action Item, Linden Fry

**Proposed Non-Substantive Changes to 2016 Guidelines Manual:** Mr. Fry gave an overview of the proposed non-substantive changes to the 2016 Guidelines Manual. The Guidelines Implementation Committee previously discussed and modified the proposed changes. The Committee unanimously recommended that the Commission implement the all the proposed changes presented to the Commission. However, the addition of Footnote #16, related to passage of the Near Act, required further Commission discussion due to pending legislation that may affect an example used in the Manual. The pending legislation amends the District's Assault on a Police Officer statute. After a significant discussion of pending legislation, the Commission agreed

that in the 2016 Manual the footnote should provide that “At the time of the publication of this Manual, the NEAR Act, Act No. 21-356, was under Congressional review. If the Act becomes law, this example may require updating.”

**Commission Action#3:** The Commission unanimously decided to accept the proposed Guidelines Manual changes, including the agreed upon language for footnote 16, by a 10-0 vote. The Commission will publish the 2016 Guidelines Manual in June 2016.

#### **VI. Next Commission Meeting Date**

The Commission discussed its next meeting date. The Commission agreed that unless urgent matters arise, the next meeting will be held on June 21, 2016.

Meeting Adjourned at 6:15 p.m.

NEXT MEETING:

June 21, 2016

One Judiciary Square (441 4<sup>th</sup> St., NW), Room 430S.